S.B.CIVIL MISC. APPEAL NO.1269/2007
(Sugan Kunwar & ors. Vs. Pappu Ram & ors.)

DATED : 22nd August 2007

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.Rajesh Shah for the appellants

For quantification of compensation to be awarded to the wife, two sons and parents of the vehicular accident victim, Udai Singh, about 42 years of age, the Tribunal has noticed the assertion of the claimants that the victim was earning Rs.4,000/- per month in a private job and another Rs.50,000/- per annum in agriculture; has referred to the oral and documentary evidence on record where the wife of the victim stated that the deceased was educated upto 4th standard and was serving with M/s. Mahendra Finance at Sumerpur, the salary certificate Ex.21, and Jamabandis Ex.2 and Ex.3. The Tribunal has noticed the shortcomings in relation to the certificate Ex.21 that the same was not issued by any Mahendra Finance; and that the person issuing certificate was not examined in evidence. The Tribunal has disbelieved any agriculture income of the deceased for Jamabandis Ex.2 and Ex.3 showing share of his father in agricultural land and there being no reliable evidence regarding agricultural income of the victim.

In the circumstances of the case, the Tribunal has put estimate on the income of the deceased at Rs.3,000/- per month; and after deducting one-third wherefrom towards his personal expenditure and with application of multiplier of 15, has assessed pecuniary loss at Rs.3,60,000/- (2000 x 12 x 15). The Tribunal has allowed Rs.30,000/- towards non-pecuniary loss and Rs.10,000/- towards funeral expenses and in this manner has allowed compensation in the sum of Rs.4,00,000/-. The Tribunal has further allowed interest at the rate of 7.5% per annum from the date of filing of claim application. The award is sought to be questioned in this appeal as being low and inadequate.

Having examined the record, this Court is clearly of opinion that the amount awarded by the Tribunal cannot be said to be less than that of just compensation; and this appeal does not merit admission.

The deceased has been shown having education upto 4th standard and has not been shown in any settled job or employment. The certificate Ex.21 relied upon by the claimants has no evidentary value whatsoever. The said certificate has been issued on a letter-head of one Mahendra Agarwal and then signed by an authorised signatory for

Mahendra Agarwal. The author of the said certificate has not been produced in evidence. The certificate states about the deceased being at service at the place of the author of the certificate as a collection agent from March 1999 to 20.05.2005; and that monthly income of the deceased was Rs.4,000/-. The certificate does not say that such amount of Rs.4,000/- was being paid by the author of the certificate to the deceased. Further, there is no corroborative evidence in the form of accounts of the person making payment nor of victim himself. The Tribunal cannot be said to have erred in not putting any probative value on the said certificate. So far agriculture income is concerned, it is noticed from the statement made by the victim's wife in her cross-examination that admittedly there was no agricultural land in the name of her husband. From the evidence available on record, no component of agriculture income could be taken into consideration.

Thus, in the overall facts and circumstances of the case, the estimate as put by the Tribunal on the income of the deceased at Rs.3,000/- per month cannot be said to be insufficient and the assessment of loss made on that basis with application of maximum side multiplier of 15 remains just and reasonable. The Tribunal has not restricted on general

damages either; and has further allowed rather higher rate of interest at 7.5% per annum. In the ultimate analysis, the award in question rules out any scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI),J.

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